

ORDINANCE NO. 45-695

AN ORDINANCE AMENDING SECTION III.C SPECIAL PURPOSE AND OVERLAY ZONING DISTRICTS OF THE WICHITA-SEDGWICK COUNTY UNIFIED ZONING CODE (April 19, 2001 EDITION), AS ADOPTED BY REFERENCE IN CITY OF WICHITA CODE SEC. 28.04.010 BY ORDINANCE NO. 44-975, BY THE ADDITION OF SECTION III-C.8D-O, DELANO NEIGHBORHOOD OVERLAY DISTRICT.

BE IT ORDAINED BY THE GOVERNING BODY OF THE CITY OF WICHITA;

SECTION 1. Section III-C of the Wichita-Sedgwick County Unified Zoning Code (April 19, 2001 Edition), as adopted by reference in City of Wichita Code Sec. 28.04.010 by Ordinance No 44-975, is hereby amended by the addition of the following:

8. D-O, Delano Neighborhood Overlay District

a. General parameters.

(1) Purpose. The D-O Delano Neighborhood Overlay District is intended to preserve, enhance, and promote the character of the Delano neighborhood as prescribed in the Delano Neighborhood Revitalization Plan. The D-O district is an overlay district; property development within the district shall comply with the **Delano Neighborhood Design Guidelines** and the standards of this district and the underlying zoning district. The design review provisions applicable within the D-O district are intended to recognize the special architectural character and proposed land-use mix of the Delano neighborhood, and to protect the private property values and public investments in the Delano Neighborhood. In the case of conflict between the regulations in this section and those of the underlying zoning district, the regulations in this section shall prevail.

(2) Boundaries of the Delano Neighborhood Overlay District. The Delano Neighborhood Overlay District applies to all property within the following geographic boundaries:

West Boundary - Meridian Street from Central Avenue south to Kellogg
North Boundary - Central Avenue east to the Arkansas River and following the Arkansas River to Kellogg
East Boundary - the Arkansas River
South Boundary - Kellogg from the Arkansas River west to Meridian Street;

but exempting from the D-O district, those properties falling within that portion of the Urban Village Redevelopment Area as depicted on Page 26, Figure 15 of the Delano Neighborhood Revitalization Plan and located east of Seneca Street, south and west of McLean Boulevard, and north of Douglas Avenue (except any properties directly fronting on Douglas Avenue or Seneca Street). The Urban Village redevelopment area has been excluded from these guidelines on the basis that the City of Wichita will be a partner in any major

redevelopment initiatives. While flexibility will be key to encouraging redevelopment initiatives, the City itself should play an important role in finalizing any land use mix and design approach proposed. The City has the ability to ensure that redevelopment in the Urban Village area is done in a fashion that is compatible with the Delano neighborhood, and reflective of the spirit and intent of the Urban Village design guidelines contained in the Delano Neighborhood Revitalization Plan. The City Council also has the authority to amend the D-O district under the procedures of this Code, as it deems appropriate in the future, to include portions or all of the Urban Village redevelopment area.

b. Use regulations. The use regulations of this overlay district shall control over the underlying zoning district.

(1) Prohibited uses. Subject to Section III-C.8.c(1)(b), the following uses are explicitly prohibited in the D-O district, regardless if said uses are stated as permitted or conditional uses in the underlying districts:

- Asphalt or Concrete Plant, Limited and General
- Businesses of an adult entertainment nature requiring a license under the Code of the City of Wichita, Chapters 3.05, 3.07, 3.56 and 3.74
- Correctional Facilities
- Correctional Placement Residence, Limited and General
- Gas and Fuel, Storage and Sales
- Manufactured Home Subdivision
- Manufactured Home Park
- Mining or Quarrying
- Oil or Gas Drilling
- Rock Crushing
- Sign (off-site)
- Solid Waste Incinerator
- Vehicle Storage Yard
- Wireless Communication Facility
- Wrecking/Salvage Yards

(2) Conditional uses. Subject to Section III-C.8.c(1)(b), the following uses shall be allowed only as a conditional use in the D-O district, regardless if said uses are stated as permitted uses in the underlying districts:

- Car Wash
- Convenience store
- Freight Terminal
- Manufacturing, General and Limited
- Parking Area, Commercial
- Restaurant (drive-in/drive-through)
- Service Station
- Storage, Outdoor
- Utility, Major
- Vehicle and Equipment Sales (indoor)
- Vehicle and Equipment Sales (outdoor)
- Vehicle Repair, General
- Vehicle Repair, Limited
- Warehouse, Self-service Storage
- Warehousing
- Wholesale or Business Services

- (3) **Accessory uses.** The following accessory uses shall be prohibited in the D-O district regardless if said uses are allowed in the underlying districts:
Portable Storage Containers

c. Design review standards and procedures.

(1) Review procedures.

- (a) **Applicability.** Except as provided in Section III-C.8.d, no permits for building demolition, construction or alterations, signs, fences adjacent to public streets (not including alleys), sidewalks, parking areas and driveways may be issued for any property, structure or site located wholly or partially within the D-O district, unless a permit has been reviewed for compliance with this district and the **Delano Neighborhood Design Guidelines** and approved by the Design Review Committee.
- (b) **No nonconformities created by adoption of the D-O district.** No use of a building, structure or property that complied with the zoning ordinance or zoning resolution in effect prior to the effective date of the D-O district shall become or be deemed to have become nonconforming due to the adoption of the D-O district. However, all other nonconforming provisions of Article VII shall apply.
- (c) **Application.** An application for a design approval within the D-O district shall be submitted in a form required by the Design Review Committee. A complete application shall include building elevations, a site plan and list of the types of building materials to be used, along with any other information deemed necessary by the Design Review Committee to conduct an adequate review of the application.
- (d) **Design Review Committee.** The Director of Planning, the Zoning Administrator and the Historic Preservation Officer shall constitute a Design Review Committee that shall administer and render decisions on applications that require compliance with the **Delano Neighborhood Design Guidelines**. The Design Review Committee shall have the authority to approve all applications submitted in accordance and compliance with the **Delano Neighborhood Design Guidelines**. The Design Advisory Committee shall advise the Design Review Committee on those applications submitted that do not conform to the requirements of the **Delano Neighborhood Design Guidelines**. In making its decisions, the Design Review Committee shall specify those critical exterior design elements (e.g. roof pitch, architectural style, window rhythm, porch requirements) and screening requirements that cannot be changed without reapplying to the Design Review Committee. All other aspects of exterior design changes would be subject to approval by any individual member of the Design Review Committee.
- (e) **Design Advisory Committee.** A Design Advisory Committee shall be appointed by the City Manager that includes representation from the Delano Business Association, the Delano Clergy Association, the Delano Neighborhood Association, the Delano Development Corporation, the Wichita Historic Preservation Board, the District IV Advisory Board, the

Metropolitan Area Planning Commission, the Wichita Area Builders Association, the Wichita Independent Business Association, or the successors of such, or any other organization with a substantial interest in the Delano district. The Design Advisory Committee shall advise the Design Review Committee on all decisions pertaining to those applications submitted that do not conform to the requirements of the **Delano Neighborhood Design Guidelines**.

(f) Action. After reviewing the completed application, the Design Review Committee shall approve, approve with conditions or modifications, or deny the request, in accordance with the design standards of this section. Any person with standing may appeal the written decision of the Design Review Committee to the City Council, by filing a written notice of appeal to the Planning Director within 30 days of the date of the written decision of the Design Review Committee.

(f) Time limit on action. If within 20 days from the date of receipt of a complete application by the Planning Director, no action has been taken on the application, the Office of Central Inspection may issue the necessary permits and the project may proceed. This time limit may be waived by mutual consent of the applicant and staff. It shall not apply if review by the Historic Preservation Board is required.

(2) Design standards. All applications for design review approval within the D-O district area shall comply with the criteria established in the **Delano Neighborhood Design Guidelines**, and all subsequent amendments to said design guidelines, as established by the governing body of the City of Wichita.

d. Exceptions and modifications.

(1) Alterations, repairs, improvements or construction that do not require a building permit shall be exempt from the D-O district design standards and review procedures. Notwithstanding the aforementioned exemption, fences adjoining a public street shall be subject to the D-O district design standards and review procedures, as shall the removal of more than 40% live material in a residential front or side yard abutting a public street (alleys are excluded).

(2) Routine maintenance and repairs, including roof re-shingling and building re-siding using natural or synthetic materials with the same appearance, shall be exempt from the D-O district design standards and review procedures.

(3) Any buildings or structures in lawful existence prior to the effective date of this D-O district that are subsequently damaged or destroyed may be reconstructed or repaired in their prior architectural style and character.

(4) In addition to the requirements of Chapter 24.04 of the Code of the City of Wichita, existing non-conforming off-site signs may be modified or altered on existing sites if, in the opinion of the Design Review Committee, such modifications or alterations will improve the overall appearance and compatibility of said signs within the Delano district.

(5) The design standards in this section shall be modified or waived by the Design Review Committee to allow for alternatives which are required in order to maintain the continued functional viability of existing uses, or in extraordinary situations of development characteristics, economic hardship, or other circumstances, provided that the purposes and intent of these standards are maintained through such interpretation.

e. Emergency repairs. The Superintendent of Central Inspection may waive the standards and review procedures of this section in instances in which emergency repairs are required, provided that subsequent repairs of a non-emergency nature comply with these standards.

f. Conflicts with other Code provisions. No section of this Code shall be construed to compel alterations that will conflict with any health or safety codes, or prohibits any alterations that are required to bring buildings into compliance with the Building Code.

SECTION 2. This ordinance shall be included in the Code of the City of Wichita and shall become effective upon its adoption and publication once in the official City newspaper.

PASSED AND ADOPTED by the governing body at Wichita, Kansas, this April 8, 2003.

Bob Knight, Mayor

ATTEST:

Pat Graves, City Clerk

Approved as to form:

Gary E. Rebenstorf, Director of Law